

JCCC PCT/PTO 29 JUL 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

HERSOUG et al

Atty. Ref.: 2466-135

National Phase of PCT/SE02/0064

Serial No. to be assigned

TC/A.U.:

Filed: July 29, 2005

Examiner:

For: ATTENUATOR

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July 29, 2005

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**PETITION TO REVIVE NATIONAL STAGE
APPLICATION**

The undersigned respectfully petitions for revival of the national stage of the captioned application PCT/SE02/00264 in accordance with 37 CFR §1.137(b), and priority accorded properly.

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FACTS

1. The office of the undersigned filed Serial No. 10/639,690 on August 13, 2003, but inadvertently transmitted the application using a rule 53(b) transmittal sheet.
2. Upon filing of the Serial No. 10/639,690, the rule 53(b) transmittal sheet claimed the priority of both SE 0100488-6, filed 14 February 2001, and PCT/SE02/00264, filed 14 February 2002. The August 13, 2003 filing of Serial No.

10/639,690 was within the thirty months requirement for filing of national stage applications for the national stage priority claim.

3. The Preliminary Amendment which accompanied the filing of Serial No. 10/639,690 expressly stated "This application is the U.S. National phase of international application PCT/SEO2/00264 filed 14 February 2002 which designates the U.S." Applicants submit that the statement in the Preliminary Amendment supplies evidence of intent to file a national stage application.

4. An executed patent Declaration was filed on November 17, 2003 for Serial No. 10/639,690, claiming priority of both SE 0100488-6, filed 14 February 2001, and PCT/SE02/00264, filed 14 February 2002.

5. The official filing receipt for Serial No. 10/639,690 listed priority of both SE 0100488-6, filed 14 February 2001, and PCT/SE02/00264, filed 14 February 2002.

6. In preparing a response to a April 5, 2005 office action for Serial No. 10/639,690, on or about July 1, 2005 the undersigned observed in the April 5, 2005 office action a statement in enumerated paragraph 1 thereof that a certified copy of a priority document had not been received. At that point the undersigned realized that Serial No. 10/639,690 had mistakenly been filed using an incorrect transmittal.

7. In view of a similar situation which very recently occurred in US SN 10/315,251, and a decision on petition rendered therein, the undersigned is now of the belief that the US Patent Office will not treat Serial No. 10/639,690 as a national stage of PCT/SE02/00264, but would instead require revival of the national stage of PCT/SE02/00264.

RELIEF REQUESTED

If the undersigned is incorrect, i.e., if Serial No. 10/639,690 has or will be treated by the US Patent Office as a national stage of PCT/SE02/00264, then please do so and dismiss this Petition. Otherwise, it is respectfully requested that the national stage of PCT/SE01/00264 be revived in accordance with 37 CFR §1.137(b).

The undersigned submits herewith a PCT national stage transmittal for PCT/SE02/00264.

The entire delay from the filing the required reply (e.g., the deadline for filing the national stage application, which Applicants mistakenly thought had been filed) until the filing of a grantable petition was unintentional. Knowledge of the mistake was only acquired this month, and since discovery of the mistake the undersigned has conferred telephonically with the client to advise of the situation and to give the client an opportunity to concur that the Petition should go forward.

A terminal disclaimer will be submitted if requested and appropriate.

The Commissioner is authorized to charge the fees for entry of this Petition, the filing of the national stage application, the petition fee under 37 CFR §1.17(h), any other petition fees, any national stage application filing/processing fees, etc.), or any other necessary fees to the undersigned's deposit account 14-1140 in the appropriate amount.

Favorable action on this request/petition is earnestly requested.

Respectfully submitted,
NIXON & VANDERHYTE P.C.

By:



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